

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of Petition for
Rulemaking of Fibertech
Networks, L.L.C.

RM-11303

**COMMENTS OF
WESTERN MASSACHUSETTS ELECTRIC COMPANY**

Western Massachusetts Electric Company ("WMECO") files these comments in response to the Petition for Rulemaking of Fibertech Networks ("Fibertech Petition") filed with the Federal Communications Commission ("FCC") on December 7, 2005. WMECO offers these Comments for the FCC's consideration based on its vast experience in the electric industry in administering pole attachments and installation of fiber-optic cables in duct and manhole systems.

I. Introduction

Pursuant to 47 U.S.C. § 224, states have the ability to exercise regulatory authority over pole attachments. WMECO's pole attachments are regulated by the Massachusetts Department of Telecommunications and Energy which has adopted its own pole attachment regulations. See M.G.L. c. 166, §25A; 220 CMR 45.00 et seq. As a result, WMECO presumes that any changes to FCC regulations that result from this proceeding will not affect utilities operating in states with their own pole attachment regulations.

Safety should be a primary consideration for the attachment of any facilities to utility structures. Attaching facilities without giving proper consideration for safety can lead to

serious and substantial safety hazards for the public and utility personnel as well as other pole users. All proposed attachments should be made in accordance with the requirements and specifications of the latest editions of the Manual of Construction Procedures ("Blue Book"), the National Electrical Code ("NEC"), the National Electrical Safety Code ("NESC"), the individual pole owners' standards, and rules and regulations of the Occupational Safety and Health Act ("OSHA") or any governing authority having jurisdiction over the subject matter.

II. The FCC Should Reject the Use of Boxing and Extension Arms

WMECO does not agree with the use of extension arms or boxing. The use of both creates a safety hazard for the general public and utility employees. WMECO does not allow the use of extension arms or boxing on poles that it owns to avoid this safety hazard.

It has been WMECO's experience that in some instances standoff brackets are installed by attachers to create the appearance of compliance with both the 40-inch vertical distance requirement between electric and communications at the pole and the requirement for 12-inch separation between communications attachments. Extension arms extend horizontally so they do not create a 40-inch vertical separation as required by the NESC. For this reason alone, extension arms should not be used. However, another problem with the use of extension arms is that they create a hazard for utility employees. Line workers must often climb poles or perform work on facilities using a bucket truck. In either case, these workers must navigate around extension arms which stick out on the pole limiting the ability to get close enough to the pole to work safely and presenting difficulties for utility workers climbing the poles.

It has also been WMECO experience that attachers have used lag bolts to attach extension arms rather than through bolts. These lag bolts do not go “through” the pole and do not provide the mechanical strength that a through bolt does. Cable tension, as well as wind and ice loading, can easily cause extension arms secured with lag bolts to fall down, thereby posing a hazard to utility workers and the general public.

Fibertech Networks (“Fibertech”) believes that it should be allowed to “box” utility structures with its facilities. Fibertech Petition at 13. Boxing is a term used to describe the installation of facilities on both sides of a pole. The use of boxing poses difficulties to utility workers climbing poles, limits the space on the pole where conduit risers can be placed, and presents considerable problems when trying to replace a pole.

In general, the use of boxing and extension arms poses a hazard to WMECO’s employees and the general public. For that reason, WMECO does not permit either practice.

III. The FCC Should Reject Fibertech’s Proposal to Establish Shorter Survey and Make-Ready Times

The FCC should reject any suggestions to require shorter time frames for surveys and completion of make-ready work. It has been WMECO’s experience that delays in the performance of surveys and make-ready work are often caused by the applicants themselves. Upon receipt of an application, WMECO can determine the cost of the survey based on the number of poles that the applicant wishes to attach to. However, the applicant often fails to make timely payment of the survey costs which causes delays in getting the survey done.

The same is true for make-ready work. It has been WMECO’s experience that for whatever reason applicants decide against the installation of facilities. Prior to expending WMECO’s customer supported resources on a speculative project, WMECO requires advance payment of all make-ready costs. This ensures that WMECO’s customers are not

paying for engineering and equipment that will not be necessary if the applicant decides not to pursue certain pole attachments. Sometimes the applicant does not pay make-ready costs for months. This obviously delays the commencement of make-ready work. In one instance, an applicant claimed that the make-ready work was not necessary but failed to provide any specifics as to how the estimates should be modified.

In addition, if a new replacement pole needs to be set, all the facilities must be moved from the old pole to the new one. The process for this begins with the electric company whose facilities are highest on the pole. Then, once the electric company has finished transferring its facilities, the cable companies move their facilities, and so on. As a result, delays in make-ready work may only be caused by one utility.

WMECO's experience is that applicants fail to respond to invoices sent for survey and make-ready costs for several months. In addition, some applicants withdraw applications and resubmit them over and over again, thereby delaying the process even further. Based on this experience, WMECO does not believe that the FCC should establish shorter survey and make-ready times.

IV. The FCC Reject Fibertech's Argument for Allowing Contractors to Perform Field Surveys and Make-Ready Work

Field survey work and make-ready work should be performed only by those responsible for maintaining clearances in conformance with the NESC. The FCC must bear in mind that the utilities are responsible for their own facilities. The utilities are responsible for ensuring that all facilities on their poles are in compliance with the NESC. It has been WMECO's experience that applicants have failed to take seriously potential safety and NESC violations. CLECs can be more concerned with cost rather than a facilities' compliance with the NESC. To permit an outside contractor, hired by an applicant, to

perform the survey and the make-ready work allows applicants the opportunity to build facilities that are not in compliance with NESC in the name of saving costs. The FCC should not open this door for CLECs.

V. CLECs Should Not Be Permitted to Enter Manholes

WMECO urges the FCC to not permit CLECs to enter manholes or view surveys. First, just a basic viewing of duct banks would not alone provide CLECs with the information they need. Although it may appear that certain ducts are not being used and may be available for CLECs, the utilities may already have plans in place for that duct. Simply viewing ducts does not give CLECs information about future plans.

However, WMECO's greatest concern regarding Fibertech's proposal is in regards to privileged information which can be obtained through entering manholes. CLECs could gain knowledge as to their competitors' facilities. In addition, the manholes include electric facilities. Electric companies must be able to protect the security of their electric system. WMECO's fears this security will be compromised if CLECs are permitted to enter manholes. Additionally, state regulators have expressed concern about manhole safety.

WMECO believes that Fibertech does not fully appreciate the hazards involved in entering manholes. The equipment in manholes could be deadly if incorrectly manipulated. WMECO wants to ensure that its system, its employees, and the CLECs employees are safe. Therefore, CLECs should not be permitted to enter manholes.

VI. Costs for Searches and Surveys Should Not Be Capped

Fibertech suggests that fees for searches and surveys be capped. Fibertech Petition at 29-30. Regulated utilities operate based on a cost basis. Regulated electric distribution companies such as WMECO pass on their costs directly to the CLECs. If costs are pre-

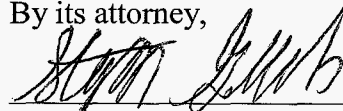
determined by the FCC or any other body, a regulated utility's customers are at risk for having to pay for any unanticipated cost overruns. The costs for searches and surveys should be passed on directly to the CLECs. If Fibertech or any other CLEC disputes the cost from the utility, they can challenge those costs at the FCC or at the state regulatory level if that particular state regulates pole attachments.

VII. Conclusion

Massachusetts has in place its own pole attachment regulations. Therefore, the effect of any changes to FCC regulations would have a minimal effect on WMECO's operations. The safety of WMECO's employees and the public at-large should take first priority. WMECO is concerned that Fibertech's proposed rule changes focus mostly on cost and not safety. As such boxing and extension arms should not be permitted, all CLEC-built facilities must conform to the NESC, and CLECs should not be permitted in manholes.

WMECO is not a competitor of Fibertech or any other CLEC. WMECO passes on its costs to the CLECs. If prices are capped, then a regulated utility's customers may have to pay for any costs not paid for by the CLECs in effect subsidizing those companies. The FCC should not put a utility's customers in such a position.

Respectfully submitted,
Western Massachusetts Electric Company
By its attorney,



Stephen Gibelli
Senior Counsel
107 Selden St.
Berlin, Connecticut 06037
(860) 665-5513

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